

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Sprint Communications Company)	IC No. 02-S67957
)	03-S000311S
Complaint Regarding)	03-S82401
Unauthorized Change of)	03-S83911
Subscriber's Telecommunications Carrier)	03-S84475
		03-S84529
		03-S84562
		03-S84611
		03-S84709
		03-S84768
		03-S84855
		03-S84877
		03-S84989
		03-S85024
		03-S85461
		03-S85557
		03-S85661
		03-S85687
		03-I0041903S
		03-I0047965S
		03-I0055357S
		03-I0056347S
		03-I0058030S
		03-I0058094S

ORDER

Adopted: May 18, 2004

Released: May 21, 2004

By the Deputy Chief, Consumer Policy Division, Consumer & Governmental Affairs Bureau:

1. In this Order, we consider the complaint¹ alleging that Sprint Communications Company (Sprint) changed Complainants' telecommunications service provider(s) without obtaining authorization and verification from each Complainant in violation of the Commission's rules.² We conclude that Sprint's actions did not result in an unauthorized change in

¹ See Appendix A.

² See 47 C.F.R. §§ 64.1100 – 64.1190.

Complainants' telecommunications service provider and we deny Complainants' complaint.

2. In December 1998, the Commission released the *Section 258 Order* in which it adopted rules to implement Section 258 of the Communications Act of 1934 (Act), as amended by the Telecommunications Act of 1996 (1996 Act).³ Section 258 prohibits the practice of "slamming," the submission or execution of an unauthorized change in a subscriber's selection of a provider of telephone exchange service or telephone toll service.⁴ In the *Section 258 Order*, the Commission adopted aggressive new rules designed to take the profit out of slamming, broadened the scope of the slamming rules to encompass all carriers, and modified its existing requirements for the authorization and verification of preferred carrier changes. The rules require, among other things, that a carrier receive individual subscriber consent before a carrier change may occur.⁵ Pursuant to Section 258, carriers are absolutely barred from changing a customer's preferred local or long distance carrier without first complying with one of the Commission's verification procedures.⁶ Specifically, a carrier must: (1) obtain the subscriber's written or electronically signed authorization in a format that meets the requirements of Section 64.1130 authorization; (2) obtain confirmation from the subscriber via a toll-free number provided exclusively for the purpose of confirming orders electronically; or (3) utilize an independent third party to verify the subscriber's order.⁷

3. The Commission also has adopted liability rules. These rules require the carrier to absolve the subscriber where the subscriber has not paid his or her bill. In that context, if the subscriber has not already paid charges to the unauthorized carrier, the subscriber is absolved of liability for charges imposed by the unauthorized carrier for service provided during the first 30

³ 47 U.S.C. § 258(a); Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996); *Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996; Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers*, CC Docket No. 94-129, Second Report and Order and Further Notice of Proposed Rule Making, 14 FCC Rcd 1508 (1998) (*Section 258 Order*), *stayed in part*, *MCI WorldCom v. FCC*, No. 99-1125 (D.C. Cir. May 18, 1999); First Order on Reconsideration, 15 FCC Rcd 8158 (2000); *stay lifted*, *MCI WorldCom v. FCC*, No. 99-1125 (D.C. Cir. June 27, 2000); Third Report and Order and Second Order on Reconsideration, 15 FCC Rcd 15996 (2000), Errata, DA No. 00-2163 (rel. Sept. 25, 2000), Erratum, DA No. 00-2192 (rel. Oct. 4, 2000), Order, FCC 01-67 (rel. Feb. 22, 2001); Third Order on Reconsideration and Second Further Notice of Proposed Rule Making, 18 FCC Rcd 5099 (2003); Order, FCC 03-116, (rel. May 23, 2003). Prior to the adoption of Section 258, the Commission had taken various steps to address the slamming problem. *See, e.g., Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers*, CC Docket No. 94-129, Report and Order, 10 FCC Rcd 9560 (1995), *stayed in part*, 11 FCC Rcd 856 (1995); *Policies and Rules Concerning Changing Long Distance Carriers*, CC Docket No. 91-64, 7 FCC Rcd 1038 (1992), *reconsideration denied*, 8 FCC Rcd 3215 (1993); Investigation of Access and Divestiture Related Tariffs, CC Docket No. 83-1145, Phase I, 101 F.C.C.2d 911, 101 F.C.C.2d 935, *reconsideration denied*, 102 F.C.C.2d 503 (1985).

⁴ 47 U.S.C. § 258(a).

⁵ *See* 47 C.F.R. § 64.1120.

⁶ 47 U.S.C. § 258(a).

⁷ *See* 47 C.F.R. § 64.1120(c). Section 64.1130 details the requirements for letter of agency form and content for written or electronically signed authorizations. 47 C.F.R. § 64.1130.

days after the unauthorized change.⁸ Where the subscriber has paid charges to the unauthorized carrier, the Commission's rules require that the unauthorized carrier pay 150% of those charges to the authorized carrier, and the authorized carrier shall refund or credit to the subscriber 50% of all charges paid by the subscriber to the unauthorized carrier.⁹ Carriers should note that our actions in this order do not preclude the Commission from taking additional action, if warranted, pursuant to Section 503 of the Act.¹⁰

4. We received Complainants' complaints alleging that Complainants' service provider(s) had been changed without Complainants' authorization.¹¹ Pursuant to Sections 1.719 and 64.1150 of our rules,¹² we notified Sprint of the complaints and Sprint responded.¹³ Based on information obtained from Sprint and each Complainant's local exchange carrier, we find that Sprint has not violated our carrier change rules. Therefore, we find that Sprint's actions did not violate our carrier change rules.¹⁴

⁸ See 47 C.F.R. §§ 64.1140, 64.1160. Any charges imposed by the unauthorized carrier on the subscriber for service provided after this 30-day period shall be paid by the subscriber to the authorized carrier at the rates the subscriber was paying to the authorized carrier at the time of the unauthorized change. *Id.*

⁹ See 47 C.F.R. §§ 64.1140, 64.1170.

¹⁰ See 47 U.S.C. § 503.

¹¹ See Appendix A.

¹² 47 C.F.R. § 1.719 (Commission procedure for informal complaints filed pursuant to Section 258 of the Act); 47 C.F.R. § 64.1150 (procedures for resolution of unauthorized changes in preferred carrier).

¹³ See Appendix A.

¹⁴ If Complainant is unsatisfied with the resolution of this complaint, such Complainant may file a formal complaint with the Commission pursuant to Section 1.721 of the Commission's rules, 47 C.F.R. § 1.721. Such filing will be deemed to relate back to the filing date of such Complainants' informal complaint so long as the formal complaint is filed within 45 days from the date this order is mailed or delivered electronically to Complainant. See 47 C.F.R. § 1.719.

5. Accordingly, IT IS ORDERED that, pursuant to Section 258 of the Communications Act of 1934, as amended, 47 U.S.C. § 258, and Sections 0.141, 0.361 and 1.719 of the Commission's rules, 47 C.F.R. §§ 0.141, 0.361, 1.719, the Complaint filed by Complainants against Sprint ARE DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Nancy A. Stevenson, Deputy Chief
Consumer Policy Division
Consumer & Governmental Affairs Bureau

APPENDIX A

INFORMAL COMPLAINT NUMBER	DATE OF COMPLAINT	DATE OF CARRIER RESPONSE
02-S67957	June 13, 2001	January 29, 2002
03-S000311S	September 29, 2003	January 4, 2004
03-S82401	January 10, 2003	March 21, 2003
03-S83911	May 13, 2003	July 18, 2003
03-S84475	July 5, 2003	September 19, 2003
03-S84529	June 30, 2003	October 10, 2003
03-S84562	July 24, 2003	September 26, 2003
03-S84611	August 4, 2003	October 10, 2003
03-S84709	August 5, 2003	October 21, 2003
03-S84768	August 12, 2003	October 31, 2003
03-S84855	September 3, 2003	November 21, 2003
03-S84877	August 19, 2003	February 4, 2004
03-S84989	September 9, 2003	February 4, 2004
03-S85024	September 12, 2003	November 3, 2003
03-S85461	October 23, 2003	December 19, 2003
03-S85557	November 13, 2003	January 6, 2004
03-S85661	November 21, 2003	January 23, 2004
03-S85687	November 24, 2003	February 6, 2004
03-I0041903S	May 7, 2003	September 19, 2003
03-I0047965S	June 30, 2003	October 10, 2003
03-I0055357S	August 25, 2003	February 4, 2004
03-I0056347S	September 3, 2003	February 4, 2004
03-I0058030S	September 12, 2003	February 4, 2004
03-I0058094S	September 16, 2003	January 7, 2004